

# Agenda

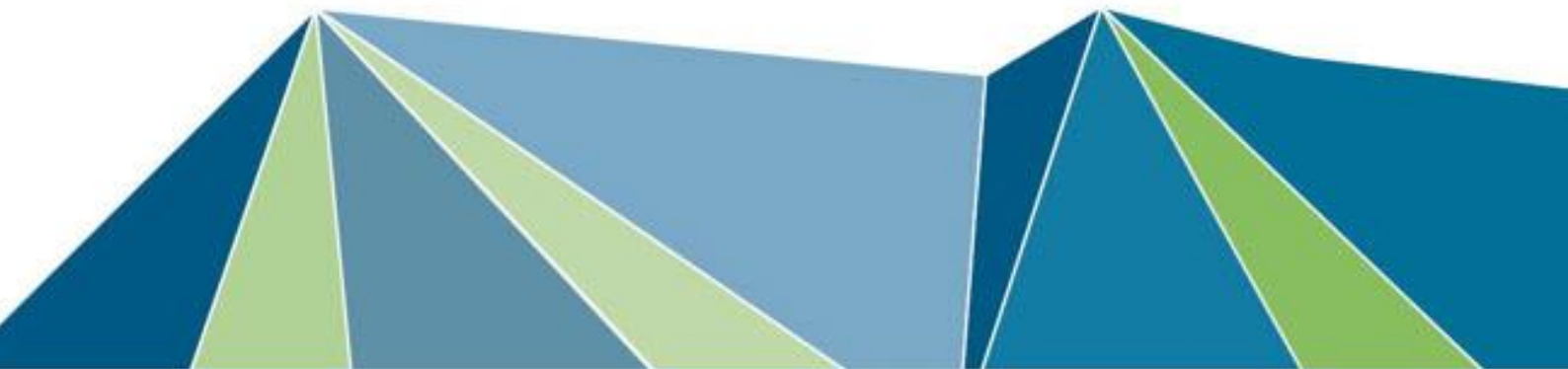
## ***Commercial Services Committee Meeting***

**12 June 2024**

A Commercial Services Committee Meeting will be held in the Ballina Shire Council Chambers, 40 Cherry Street, Ballina on **12 June 2024 commencing at 4 PM.**

1. Acknowledgement of Country
2. Apologies
2. Declarations of Interest
3. Deputations
4. Committee Reports

Paul Hickey  
**General Manager**



## **Ethical Decision Making and Conflicts of Interest**

### **A guide for Councillors, Council employees and community representatives**

#### **Ethical decision making**

- Is the decision or conduct legal?
- Is it consistent with Government policy, Council's objectives and Code of Conduct?
- What will the outcome be for you, your colleagues, the Council, anyone else?
- Does it raise a conflict of interest?
- Do you stand to gain personally at public expense?
- Can the decision be justified in terms of public interest?
- Would it withstand public scrutiny?

#### **Conflict of Interest**

A conflict of interest is a clash between private interest and public duty. There are two types of conflict:

- **Pecuniary** – an interest that you have in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to yourself or another person or entity defined in part 4 of the Council's Code of Conduct, with whom you are associated.
- **Non-pecuniary** – a private or personal interest that you have that does not amount to a pecuniary interest as defined in the Council's Code of Conduct.

These commonly arise out of family or personal relationships, or out of involvement in sporting, social, religious or other cultural groups and associations, and may include an interest of a financial nature.

#### **The test for a conflict of interest**

- Is it likely I could be influenced by personal interest in carrying out my public duty?
- Would a fair and reasonable person believe I could be so influenced?
- Conflict of interest is closely tied to the layperson's definition of "corruption" – using public office for private gain.
- It is important to consider public perceptions of whether you have a conflict of interest.

#### **Identifying problems**

- Do I have private interests affected by a matter I am officially involved in?
- Is my official role one of influence or perceived influence over the matter?
- Do my private interests' conflict with my official role?

#### **Disclosure and participation in meetings**

##### **Pecuniary Interests**

- A Councillor or a member of a Council Committee who has a pecuniary interest in any matter with which the Council is concerned, and who is present at a meeting of the Council or Committee at which the matter is being considered, must disclose the nature of the interest to the meeting as soon as practicable.
- The Councillor or member must not be present at, or in sight of, the meeting of the Council or Committee:
  - a) at any time during which the matter is being considered or discussed by the Council or Committee, or
  - b) at any time during which the Council or Committee is voting on any question in relation to the matter.

**No Knowledge** - A person does not breach this clause if the person did not know and could not reasonably be expected to have known that the matter under consideration at the meeting was a matter in which he or she had a pecuniary interest.

## **Non-pecuniary Interests**

Must be disclosed in meetings. There are a broad range of options available for managing non-pecuniary interests and the option chosen will depend on an assessment of the circumstances of the matter, the nature of the interest and the significance of the issue being dealt with. Non-pecuniary interests must be dealt with in one of the following ways:

- It may be appropriate that no action be taken where the potential for conflict is minimal. However, Councillors should consider providing an explanation of why they consider a conflict does not exist.
- Limit involvement if practical (eg. Participate in discussion but not in decision making or vice versa). Care needs to be taken when exercising this option.
- Remove the source of the conflict (eg. Relinquishing or divesting the personal interest that creates the conflict)
- Have no involvement by absenting yourself from and not taking part in any debate or voting on the issue as per the provisions in the Code of Conduct (particularly if you have a significant non pecuniary interest)

## **Deputations to Council – Guidelines**

- Deputations by members of the public may be made at Council meetings on matters included in the business paper.
- Deputations are limited to one speaker in the affirmative and one speaker in opposition.
- Deputations, per person, will be limited to a maximum of two items on the agenda.
- Requests to speak must be lodged in writing or by phone with the General Manager by noon on the day preceding the meeting.
- Deputations are given five minutes to address Council.
- Deputations on the same matter will be listed together with the opposition first and the speaker in affirmative second.
- Members of the public are advised that any documents tabled or given to Councillors during the meeting become Council documents and access may be given to members of the public in accordance with the requirements of the Government Information (Public Access) Act 2009.
- The use of powerpoint presentations and overhead projectors is permitted as part of the deputation, provided that the speaker has made prior arrangements with the General Manager's Office at the time of booking their deputation. The setup time for equipment is to be included in the total time of five minutes allocated for the deputation.
- To avoid conflicts of interest, real or perceived, deputations will not be accepted from:
  - a) Tenderers during a public tender or request for quotation
  - b) Persons or representatives from organisations seeking financial support from Council that involves an expression of interest
  - c) Consultants who are engaged by Council on the matter the subject of the deputation.

## **Recording and Livestreaming of Council Meetings**

- The meeting (with the exception of the confidential session) is being livestreamed and recorded for on-demand viewing via Council's website ([ballina.nsw.gov.au/agendas-and-minutes](http://ballina.nsw.gov.au/agendas-and-minutes)) and a person's image and/or voice may be broadcast.
- Attendance at the meeting is taken as consent by a person to their image and/or voice being webcast.
- All speakers should refrain from making any defamatory comments or releasing any personal information about another individual without their consent.
- Council accepts no liability for any damage that may result from defamatory comments made by persons attending meetings. All liability will rest with the individual who made the comments.  
This meeting must not be recorded by others without the prior written consent of the Council in accordance with Council's Code of Meeting Practice.

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1. Acknowledgement of Country
  2. Apologies
  3. Declarations of Interest
  4. Deputations
- 

**1. Acknowledgement of Country**

In opening the meeting the Mayor provided an Acknowledgement of Country.

**2. Apologies**

**3. Declarations of Interest**

**4. Deputations**

## **5.1 Policy (Review) - Private Structures within Council Owned Waterways**

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### **5. Committee Reports**

#### **5.1 Policy (Review) - Private Structures within Council Owned Waterways**

<b>Section</b>	Commercial Services
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<b>Objective</b>	To review the feedback received following the exhibition of the Private Structures Within Council Owned Waterways Policy.
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#### **Background**

At the 28 March 2024 Ordinary meeting Council resolved to adopt the review of the Private Structures within Council Owned Waterways Policy, along with approving exhibition of the document for public comment.

The draft policy was placed on public exhibition with a closing date of 30 April 2024. All current licence approval holders were notified by mail, with nine submissions received.

Copies of the submissions are included as Attachment 1 to this report. The purpose of this report is to assess the key points from the submissions, propose amendments where appropriate and finalise adoption of the policy.

#### **Key Issues**

- Content of policy
- Address issues arising from submissions
- Maintenance

#### **Discussion**

The draft policy document was on public exhibition and all current licence holders (164) were notified by direct mail.

Nine submissions were received, with the most common theme identified being the dredging of Ballina Quays.

The following clause was included in the policy, as exhibited (refer Attachment 2) as historically development consent conditions have been applied to new pontoon consents in relation to maintenance.

Clause 1.5: *"It is the responsibility of the benefitting landowner (licensee) to undertake any minor excavation necessary to allow and to maintain pontoon flotation. No such excavation within the canal is permitted without the prior consent of Council."*

These conditions only applied when there is development consent for the structure, and many of the structures in the Council owned waterways were constructed prior to any formal development consent, or conditions, being applied.

## 5.1 Policy (Review) - Private Structures within Council Owned Waterways

The intent of the clause was to bring all licence holders into alignment regarding maintenance of pontoon structures.

However, this can be impractical for individual landowners to carry out dredging or excavation within the Council owned waterways. It is also unreasonable to expect Council to carry out dredging or excavation for private property owners on an individual basis.

To mitigate this matter, Council could provide a list of pre-approved contractors to complete private works for approved dredging works for those property owners who require it.

Council's current dredging program for Lake Banyanda and Ballina Quays is undertaken approximately every five years, subject to funding, and this has been in place since 2005.

Lake Banyanda is due for dredging in 2024/25 with a budget allocation of \$150,000. Ballina Quays is then scheduled for later years.

Should Council wish to amend or replace Clause 1.5 a possible change could be as follows:

*"Council is unable to guarantee the Council owned waterways profile will always allow floatation of pontoons. Council maintenance of the waterways will be carried out in accordance with the funding allocated in Council's long term financial plan, as per Council's adopted Delivery Program and Operational Plan."*

This wording is important to clarify that Council has limited resources and dredging the waterways needs to be balanced against all the other competing priorities for Council. It is also impractical for Council to undertake dredging, or excavation works, for the floatation of pontoons on an individual basis.

Other points raised in the submissions included:

Key theme	Information	Response
Licence Fees	Concern that the licence fees for waterways was not going towards the cost of dredging	When the policy was originally adopted the licence fee was an administration charge for administering the policy. It was not intended to contribute to the costs of dredging. Income for waterways in 2022/23 was \$18,700 well short of the funding needed for dredging.
Waterways space	Concern that landowners are adding to their structures and limiting space for adjoining landowners.	The policy outlines that waterways structures must be maintained within the side property boundaries with no obstruction to adjoining owners.

### Community Engagement Strategy

The draft policy was placed on public exhibition with a closing date of 30 April 2024. All current licence holders were notified by mail.

### Financial / Risk Considerations

Council transfers funding to a canal dredging reserve each year (approximately \$55,000 to \$60,000), to allow the major dredging works to be carried out on a cyclical basis (say every five years) subject to sand movements.

The most recent tender for the Ballina Quays dredging was approximately \$260,000, therefore Council may well need to increase the annual transfer to approximately \$100,000 per annum, if Lake Banyanda and the Ballina Quays are still going to be dredged on a regular basis.

There is also a \$20,000 allocation each year in the operating expense budget for minor maintenance.

Licence fees are charged annually for private structures within the waterways. The current fee is \$125pa and this will increase to \$131pa in 2024/25 (subject to the draft fees and charges being adopted). This largely covers administration costs and is well short of making any significant contribution to the cyclical dredging.

### Options

The options available are to adopt the policy as exhibited (as per Attachment 2) with no further changes, or to amend clause 1.5, with the preference being the following wording:

*“Council is unable to guarantee the Council owned waterways profile will always allow floatation of pontoons. Council maintenance of the waterways will be carried out in accordance with the funding allocated in Council’s long term financial plan, as per Council’s adopted Delivery Program and Operational Plan.”*

On balance, the preference is to amend the policy, as it is important that the agreements clarify how Council’s manages the dredging program.

### RECOMMENDATION

That Council adopts the Private Structures within Council Owned Waterways Policy, as per Attachment 2 to this report, subject to the following amendment to clause 1.5:

*“Council is unable to guarantee the Council owned waterways profile will always allow floatation of pontoons. Council maintenance of the waterways will be carried out in accordance with the funding allocated in Council’s long term financial plan, as per Council’s adopted Delivery Program and Operational Plan.”*

### Attachment(s)

1. Submissions - Policy (Review) - Private Structures within Council Owned Waterways [↓](#)
2. Policy (Review) - Private Structures within Council Owned Waterways [↓](#)

Marilyn and John Chaseling  
13 Burns Point Ferry Road  
Ballina 2478

April 30, 2024

Ballina Councillors, Leanne Harding and Haylie Crowe  
Coordinator Property  
Commercial Services  
Ballina Shire Council  
Ballina 2478

Dear Ballina Councillors, Ms Harding and Ms Crowe

**Re: Private Structures within Council-Owned Waterways: Policy Review**

We are writing to express our strong objections to the proposed policy Amendment 1 Section 1:5; "it is the responsibility of the benefiting landowners (Licensee) to undertake any minor excavation necessary to allow and maintain pontoon flotation". In this regard, we make the following points:

1. **Utilisation of Donated Equipment:** We understand that the Ballina Quay canal developers donated the canal dredging equipment to Council for dredging. We understand that Council chose to sell this valuable resource instead of utilising it. It is utterly perplexing and disheartening to witness Council now suggesting that landholders bear the burden of sand removal tasks that the previously donated dredging equipment could have easily addressed.
2. **Existing Pontoon Fees:** Over the past few years, property owners with pontoons have dutifully paid fees to the Council, contributing to the municipality's revenue stream. It is evident that Council has been actively generating funds through these pontoon fees, thereby establishing a financial foundation associated with pontoon ownership.
3. **Past Experiences:** In our two decades along the canal, we have seen Council struggle with canal maintenance, leading to elongated and messy outcomes. We maintain that it is vital that Council learn from these experiences and find efficient and effective canal dredging and maintenance practices. Requiring individual landowners to handle sand maintenance tasks independently risks chaos and disastrous community consequences for our entire Ballina Quays community.
4. **Waterways Jurisdiction:** There was a specific instance where we faced an issue with sand buildup under our pontoon due to its location on a bend in the canal. During low tides, one corner of our pontoon was completely grounded. In an attempt to address this, we reached out to Ballina Council, who directed us to Waterways, only to be redirected back to the Council. Unfortunately, this bureaucratic runaround left us without a solution, as neither party seemed willing to take responsibility for rectifying the problem.

5. Additional Concerns Arising from Council's Proposed Policy Amendment 1 Section 1:5 encompass the following:

- i. Mandating individual landowners to undertake sand removal work after gaining approval from Council will **impose significant burdens** on landowners and potentially strain Council resources as Council staff will be tied up in the approval and monitoring process.
- ii. Requiring landowners to conduct minor excavations **raises logistical concerns** regarding the diverse array of machinery individuals may employ, potentially resulting in inconsistent outcomes and safety hazards.
- iii. **The impracticality of accessing many pontoons** directly through landowner's properties means machinery must navigate through the canals or cross others' properties. This poses a **significant risk of damaging canal frontages, potentially sparking disputes with Council and among property owners and creating formidable logistical challenges.**
- iv. And where does Council propose landowners **deposit the sand excavated from beneath the pontoons—into the canal itself? on the landowner's property? On neighbours' properties?** This pressing issue alone exposes an environmental and logistical nightmare, demanding urgent resolution from Council about sand management!

**Flood-Affected Canal Properties:** The devastating floods of March 2022 left an indelible mark on the West Ballina community, with virtually all properties along the canals inundated. The catastrophic aftermath has reverberated through our lives, inflicting profound financial, social, and emotional tolls.

As we endeavoured to rebuild our flood-ravaged homes, many of us faced prolonged displacement, enduring two years of upheaval and uncertainty. Regrettably, some residences, including our own, remain in varying stages of disrepair, underscoring the enduring challenges wrought by the disaster. Against this backdrop of ongoing recovery, Council's proposition to mandate minor excavations on pontoons on Council-owned canals imposes yet another burden on us, the affected landowners.

In conclusion, we urge Ballina Shire Council to maintain the canals.

Yours sincerely

*Marilyn Chaseling*

Marilyn & John Chaseling

### Leanne Harding

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**From:** loddobpfr <loddobpfr@bigpond.com>  
**Sent:** Thursday, 25 April 2024 1:09 PM  
**To:** Ballina Shire Council  
**Subject:** Email to Ms Harding, Ms Crowe and Ballina Councillors from Anne Lodington

Please forward to Ms Harding, Ms Crowe, Ballina Councillors Re 1843

Anne and Wayne Lodington

19 Burns Point Ferry Road

Ballina 2478

April 25, 2024

Leanne Harding and Haylie Crowe

Coordinator Property

Commercial Services

Ballina Shire Council

Ballina 2478

Dear Ms Harding and Ms Crowe cc Ballina Councillors

#### **Re: Private Structures within Council-Owned Waterways: Policy Review**

I strongly object to the proposed policy Amendment 1 Section 1:5; "it is the responsibility of the benefiting landowners (Licensee) to undertake any minor excavation necessary to allow and maintain pontoon flotation".

What a total cop-out by Council! It is the Council's responsibility to maintain and ensure public access to waterways and canals.

The canal waterways have been deemed Council operational land since October 2013 and, as such, residents have assumed insurance and licence fee responsibilities to have a pontoon and waterway structures.

Now, the Council would like these same licensees to accept responsibility for sand that accumulates under pontoons. This sand has not been successfully removed with any already dredging strategies the Council has implemented. How can residents be held accountable for the maintenance that the Council themselves find so difficult to find a satisfactory solution?

The problems arising from each licensee dredging or removing their own sand opens a Pandora's box of misinterpretation. Even with Council approval, overseeing each work would be needed to exercise the correct guidelines.

Ballina, and particularly the Quays estate, has suffered catastrophic damage during the 2022 March floods. Many homes, including ours, have not yet been able to be fully repaired. Some home repairs have

not even begun. More than a few residents had no insurance and are financing their repairs from savings. And now the Council adds more stress and responsibility onto licensee holders. Shame on you!

I have witnessed over 20 years here on the canal the difficulties and disasters when the Council is trying to maintain and dredge the canal. Please do not shirk your responsibility and pass the issue to pontoon licensee holders.

Yours sincerely

Anne and Wayne Lodington



**Leanne Harding**

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**Subject:** FW: Pontoon Submission. 1843 (17/100019) Haylie Crowe.

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**From:** Isobel Johnstone <lijohnstone@bigpond.com>  
**Sent:** Saturday, April 27, 2024 2:10 PM  
**To:** Ballina Shire Council <BallinaShireCouncil@ballina.nsw.gov.au>  
**Subject:** Pontoon Submission. 1843 (17/100019) Haylie Crowe.

Pontoon Submission. 1843 (17/100019)

Dear Haylie,

I would like to make a submission against Council's draft policy regarding 'Private Structures within Council Owned Waterways - Policy Review'.

After reading Council's directive on "how do I write a good submission", I have provided a brief summary at the end of this submission, as I could not be "brief and to the point" in demonstrating my motives for doing so. I also included "Suggesting changes that might resolve the problems identified" as also advised in that document.

Since I have not received a reply to my request of 18 April from Civil Services Section regarding confirmation of continuance of their current dredging schedule for Ballina Quays, I will assume it will stay in place at a 5 year interval for the purpose of this submission.

In particular, I object to the 'General Requirements' 1.5.

I believe not only is the current dredging plan inadequate in being too long between events, I consider it to be an inadequate and ineffectual scope of work for what it hopes to achieve ie. "...to provide 'navigable waters' "

I have had my pontoon for over twenty years and like most of my neighbours, have had to contend with the frustration of it regularly bottoming-out during low tides even shortly after the dredging exercise has been completed. On some days I can't even launch the boat because of insufficient water underneath the pontoon itself. On top of that, because mine is a 'dry-berth' pontoon, when one side bottoms out with the outgoing tide, my boat has to be securely tied down so as not to spill off sideways into the water. I believe 'that' to be the visual 'proof in the pudding' that the current scope of work does not competently achieve its intended goal. (I have some photographs for your consideration if you require, but only included one taken last Thursday on a 0.45m low tide, keeping in mind the last dredging was completed in July 2023, with supposedly four more years to go.)

When you consider that a resident receives 'Council Permission' to install a pontoon by an 'approved supplier', and then pays a handsome fee to Council for the privilege, with a so-called 'responsible' dredging maintenance schedule in place, over-sighted by Council itself, one would expect not to have to then pay for what could be construed as incompetent workmanship in the first place. (A memorandum of understanding surely applies)

Now when this lopsided pontoon eventually (2 tonnes) snaps the guy wires and/ or rips the retaining walls out, Council might then direct the owner to rectify the situation at their own expense (which could be thousands of dollars), even though this was indirectly caused, in fact, by Council's so-called 'servants or contractors' in the first place. One could be left wondering what the ongoing fee actually 'does' cover?

I have had Ballina Slipways here at my place in the past, to assist after 'bottoming-out', and they, like many others, they thought the pontoon was constructed out of plywood. When I advised them it was a concrete slab encrusted in polythene, they backed off with their proposal to drag it out into the high waterline mark with a boat to then work upon.

Then comes the logistics of the situation, where very few residences have access to allow digging machinery to enter and setup on the 'shoreline' (if this was required). They also probably are elderly and cannot do the job themselves, even with Council approval. Now, at the end of the day, it's not about we boat owners as such, it's about enhancing a very valuable asset of the Ballina Shire.

The Policy objectives are to "Enable the use and occupation of Council owned waterways for private boating structures", as well as "Address adequately Council's liability in relation to private structures within waterways under Council ownership". Now without adequate 'preventative' (as against 'remedial') maintenance, these objectives cannot possibly be achieved.

The bottom line here, in my opinion, is that in the past, Council has grossly underestimated their otherwise well intentioned capabilities and responsibilities when it came to providing their 'ideal objectives' as stated in the policy, with the inevitable huge increase of private structures since that time.

### SUMMARY.

So, my objection is directed at Clause 1.5 for the above reasons, in that "to undertake any minor excavation necessary to allow and to maintain pontoon floatation, is the (sole) responsibility of the benefiting landowner (licensee)"!

### SUGGESTIONS.

- (1): On completion of next dredging event, a local representative of each of the Council Owned Waterways is invited to co-sign-off their approval alongside Council.
- (2): The dredging is conducted every 3 years.
- (3): There is a 12 month warranty which ensures pontoons do not bottom-out.(whereby costs are borne by Council)
- (4): After this 12 month warranty, Council will match 50% shared costs to rectify the situation.
- (5): A better, more efficient and productive dredging system is used to achieve the high standard of 'delivery' our Ballina Shire Council has always shown.
- (6): After dredging is completed, native sea grasses could be planted to stop the otherwise inevitable early erosion.

Thank you for your kind consideration.



Yours Sincerely  
Laurence Johnstone  
63 Burns Point Ferry Road  
West Ballina. 2478.

29 April 2024.

Sent from my iPad

**Leanne Harding**

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**From:** Ballina Shire Council <notifications@engagementhq.com>  
**Sent:** Monday, 29 April 2024 1:33 AM  
**To:** Ballina Shire Council  
**Subject:** Submission - Feedback - Private Structures Within Council Owned Waterways Policy  
- Task to Leanne Harding

Anonymous User submitted feedback on the Feedback - Private Structures Within Council Owned Waterways Policy with the responses below.

**Your Name**

Michele Gail Anne Brown

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**Phone Number**

[REDACTED]

---

**Your email address**

corriganbrown@hotmail.com

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**Was the document easy to read and understand?**

No

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**Do you support the overall objectives and content of the document?**

No

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**Please provide further information about your response below.**

As Council is responsible for maintaining our roadways they should continue to maintain our waterways under existing policy. We cannot possibly fill in a pothole as much as we cannot dredge our sand on the waterway. Ridiculous to shift the responsibility and costs back to us. Its a copout.

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**I have read and agree with Council's [Privacy Policy](#)**

Yes

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Do you wish your submission to be treated as confidential?

No

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### Leanne Harding

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**From:** Ballina Shire Council <notifications@engagementhq.com>  
**Sent:** Monday, 15 April 2024 2:47 PM  
**To:** Ballina Shire Council  
**Subject:** Submission - Feedback - Private Structures Within Council Owned Waterways Policy  
- Task to Paul Tsikleas

Anonymous User submitted feedback on the Feedback - Private Structures Within Council Owned Waterways Policy with the responses below.

#### Your Name

P & B MAXWELL

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#### Your email address

bpmaxwell@hotmail.com.au

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#### Was the document easy to read and understand?

Yes

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#### Do you support the overall objectives and content of the document?

No

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#### Please provide further information about your response below.

We object strongly to the proposal. In the 2 years since we were flooded, we had hopes that Council was investigating ways to improve the safety of Ballina Quays residents so that we could be secure in our homes. Instead, we receive this notification that you want to make things worse! During the flood, the water in the canal was HIGHER than that in the river, so we had water rushing through our home to reach the low point of the river. We also lost approx. 70% of our belongings and have only been able to return home of 30+ years, a few months ago. There are many homes in Ballina Quays STILL being made habitable and many residents STILL displaced. Instead of maintaining this waterway properly, you are instead advocating an adhoc approach where each resident simply looks after their own property. The only way we can be safer in our homes is for Council to dredge the entire canal more regularly and stop using the canals as a stormwater drain. Council also needs to reinvestigate the GHD report suggestion of a flood gate. These measures should contribute to a reduction in the severity of the effect of future floods and hopefully save residents and their homes. Ballina Council seems to be pretending the flood never happened and that all is ok in West Ballina. Nothing could be further from the truth. We strongly oppose these proposed changes and request council investigate and instigate measures which would mitigate the severity of any future floods, so that we can be safe in our homes. Surely this should be supported by all levels of government.

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I have read and agree with Council's [Privacy Policy](#)

Yes

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Do you wish your submission to be treated as confidential?

No

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### Leanne Harding

**From:** Ballina Shire Council <notifications@engagementhq.com>  
**Sent:** Thursday, 11 April 2024 10:09 AM  
**To:** Ballina Shire Council  
**Subject:** Submission - Feedback - Private Structures Within Council Owned Waterways Policy  
- Task to Paul Tsikleas

**Categories:** [REDACTED]

Anonymous User submitted feedback on the Feedback - Private Structures Within Council Owned Waterways Policy with the responses below.

#### Your Name

Jason Gilmore

#### Phone Number

[REDACTED]

#### Your email address

jason-gilmore@bigpond.com

#### Was the document easy to read and understand?

Yes

#### Do you support the overall objectives and content of the document?

Neutral

#### Please provide further information about your response below.

It was my understanding that the original concept of introducing a license fee on structures was the funds would go towards maintaining deep water access in the canals by way of regular dredging. The introduction of clause 1.5 reads like it is removing Council from its obligation of regular dredging and placing the onus on Land owners in the Quays with structures. Can Council please outline what the funds from fees on structures goes towards?

I have read and agree with Council's [Privacy Policy](#)

Yes

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**Do you wish your submission to be treated as confidential?**

No

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### Leanne Harding

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**From:** Ballina Shire Council <notifications@engagementhq.com>  
**Sent:** Tuesday, 9 April 2024 9:02 PM  
**To:** Ballina Shire Council  
**Subject:** Submission - Feedback - Private Structures Within Council Owned Waterways Policy  
- Task to Paul Tsikleas

Anonymous User submitted feedback on the Feedback - Private Structures Within Council Owned Waterways Policy with the responses below.

**Your Name**

warren lusted

---

**Phone Number**

No Answer

---

**Your email address**

carol.munsie@hotmail.com

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**Was the document easy to read and understand?**

Yes

---

**Do you support the overall objectives and content of the document?**

Yes

---

**Please provide further information about your response below.**

Who will be responsible for damage costs to jettys or structures caused by council staff or contractors during maintenance periods

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**I have read and agree with Council's [Privacy Policy](#)**

Yes

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Do you wish your submission to be treated as confidential?

No

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### Leanne Harding

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**From:** Ballina Shire Council <notifications@engagementhq.com>  
**Sent:** Tuesday, 9 April 2024 5:54 PM  
**To:** Ballina Shire Council  
**Subject:** Submission - Feedback - Private Structures Within Council Owned Waterways Policy  
- Task to Paul Tsikleas

Anonymous User submitted feedback on the Feedback - Private Structures Within Council Owned Waterways Policy with the responses below.

**Your Name**

Josh

**Phone Number**

No Answer

**Your email address**

joshbruen84@gmail.com

**Was the document easy to read and understand?**

Yes

**Do you support the overall objectives and content of the document?**

Neutral

**Please provide further information about your response below.**

Section 1.5 would be a difficult policy to enforce as it would be council's responsibility to dredge the waterways. There are also other natural and un natural contributing factors to sand and sediment movement that is outside the land owners control.

**I have read and agree with Council's [Privacy Policy](#)**

Yes

---

Do you wish your submission to be treated as confidential?

No

---



Anonymous User submitted feedback on the Feedback - Private Structures Within Council Owned Waterways Policy with the responses below.

**Your Name**

[Redacted]

**Phone Number**

[Redacted]

**Your email address**

[Redacted]

**Was the document easy to read and understand?**

Yes

**Do you support the overall objectives and content of the document?**

Neutral

**Please provide further information about your response below.**

I would like to see conditions relating to the amount of waterway 'space' some landowners use (ie adding to pontoons and drydocks limiting the space and accessibility for neighbouring landowners).

[Redacted]

**I have read and agree with Council's [Privacy Policy](#)**

Yes

---

**Do you wish your submission to be treated as confidential?**

Yes

---

**Please provide a reason**

For privacy I do not want this submission made public, thank you.

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(REVIEW)  
POLICY NAME: PRIVATE STRUCTURES WITHIN  
COUNCIL OWNED WATERWAYS

POLICY REF: P02

MEETING ADOPTED: Resolution No.

POLICY HISTORY: 250620/3: 280716/31



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### OBJECTIVES

The objectives of this policy are to

- Enable the use and occupation of Council owned waterways for private boating structures,
- Address adequately Council's liability in relation to private structures within waterways under Council's ownership,
- Provide transparency and clarity in relation to the approval and licencing requirements for private waterway structures on Council owned land,
- Establish guidelines and parameters in relation to the installation, maintenance and construction requirements for waterway structures,
- Maintain the function and public accessibility of Council owned waterways, and,
- Recognise the private occupation of public land in Council owned waterways.

### POLICY

Council recognises the benefits provided to adjoining landowners through the provision of waterway structures that provide access to the greater Richmond River estuary system. Council also acknowledges that the placement of waterway structures is consistent with the purpose of the subject waterways.

This policy has been established to define and clarify Council's requirements for the placement of private waterway structures within a Council owned waterway. Council agrees in principle to the occupation of Council owned waterways for waterway structures subject to the benefiting landowner complying with the following requirements.

#### 1. General requirements applicable to all waterway structures

- 1.1 The construction, installation and maintenance of waterway structures within Council owned waterways is to be undertaken in accordance with the provisions of this policy and relevant provisions of the Australian Standards for *Guidelines for the Design of Maritime Structures 2005* or other relevant superseding guidelines.
- 1.2 Landholders are to satisfy themselves that appropriate approvals have been obtained where required from the Road and Maritime Service under the provisions of the *Management of Waters and Waterside Lands Regulation*-NSW where such structures are located within 'navigable waters' under the terms of the Regulation.
- 1.3 When directed, waterway structures are to be removed (at no cost to Council) to permit maintenance activities within the waterway, or for any other reason.
- 1.4 It is the responsibility of the benefiting landowner (licensee) to maintain the waterway structure in a safe and tidy condition at all times.
- 1.5 It is the responsibility of the benefiting landowner (licensee) to undertake any minor excavation necessary to allow and to maintain pontoon flotation. No such excavation within the canal is permitted without the prior consent of Council.

- 1.6 A waterway structure must not be modified, extended or changed without the prior approval of Council.
- 1.7 Any alterations and/or additions to an existing authorised waterway structure must obtain the relevant approvals in accordance with the requirements of section 2 of this policy.
- 1.8 1.6Provision is to be made for the access of Council and its servants or contractors across any structure erected/installed within the Council owned waterway.
- 1.9 The benefiting landowner is required to pay the annual licence fee (and application and transfer fees if applicable) for private waterway structures as determined by Council.
- 1.10 A licence issued by Council for a waterway structure may be cancelled at any time with notice in writing to the benefiting landowner in circumstances where:
- a) the structure in the opinion of Council has become unsafe or presents a danger to boating or other property or to the general public,
  - b) the benefiting landowner (licensee) does not hold the insurance coverage requirements as specified in this policy,
  - c) failure to pay the annual licence fee, or
  - d) the Council considers it necessary for any other reason.
- 1.11 The benefiting landowner must maintain a public liability policy of insurance in respect of any one occurrence of not less than \$20,000,000.00 in relation to liability for loss or damage to property and death of or injury to any person in any way connected to Council owned land the subject of the licence agreement. The insurance Product Disclosure Statement (PDS) and Certificate of Currency is to:-
- a) be provided to Council with the signed Licence Agreement,
  - b) be maintained yearly and provided to Council upon request.
- 1.12 Private waterway structures are not to be used for the permanent mooring of houseboats (or involve the residential occupation of boating vessels).
- 1.13 Private waterway structures are not to be used for commercial purposes, other than as approved in accordance with Council's Commercial Activities on Public Land Policy.
- 2. Requirements for installation of new waterway structures (including alterations and additions to existing structures)**
- 2.1 Proposals for any new waterway structures or any alterations and additions to existing structures over or within Council owned land must satisfy the following requirements prior to construction or installation works commencing:
- a) All waterways' structures require~~ment~~ Development Consent and a Construction Certificate (CC) to be issued prior to the commencement of works.
  - b) Any waterways structures, which potentially affect or disturb any sea grass beds may require referral to the NSW Department of Primary Industries (DPI) for their comment/concurrence. In these instances, the proposal is regarded as Integrated Development under the Environmental Planning and Assessment Act (EPA) 1979 as amended. An integrated referral attracts additional NSW Government referral ~~and Council-administration~~ fees.

- c) The design and application documents for any proposed waterway structure are to comply with the requirements of Council's **Development Control Plan**, Boat Ramp Standard Design and/or Pontoon Design Guideline.

2.2 Following the **development** approval requirements in clause 2.1 and prior to the **issue of a Construction Certificate** ~~commencement of construction or installation works~~ for any new, altered or additional structures within or over Council owned waterways, the benefiting landowner is to enter into a licence agreement with Council for the occupation of Council owned land.

### 3. Existing waterway structures with approval

- 3.1 Upon request by Council, adjoining landowners with existing waterway structures having development consent issued in accordance with the *Environmental Planning & Assessment Act* 1979 or another appropriate approval from Council will be required to enter into a licence agreement for the occupation of Council owned land.

Written evidence of approval documentation is required.

### 4. Transfer of licences

- 4.1 Any licence agreement issued by Council for private waterway structures under sections 2 or 3 of this policy may be transferred to a new adjoining landowner upon written request to Council.
- 4.2 A request for transfer of licence agreement in clause 4.1 must be made in writing to Council and shall be accompanied by the required transfer fee.

### 5. Compliance

- 5.1 Failure to have structures appropriately approved and licence issued may result in Council undertaking compliance actions to have the structure removed, with any costs associated with such actions borne by the landholder.

## BACKGROUND

Council owns the freehold title to the following water bodies:

- Ballina Quays Canals (Lot 63 DP 263861 & Lot 132 DP 775228)
- Banyanda Lake (Lot 50 DP 259593)
- Endeavour Lake (Lot 72 DP 778628)

The bed (and, in the case of Endeavour Lake, the shoreline) of these waterways is owned by Council and classified as operational land in accordance with the *Local Government Act* 1993. One of the functions of these waterways is to enable adjoining properties to benefit from direct waterway access. Among these benefits are the options for adjoining owners to place private structures such as boat ramps, jetties and pontoons within the waterway.

The purpose of this policy is to establish and clarify the Council's regulatory framework where waterway structures occupy or are placed over Council owned land.

The waters to which this policy applies are navigable waterways for the purpose of the *Marine Safety Act* 1998. Consequently, the navigation of these waterways is subject to relevant State and Federal legislation governing the registration and operation of marine vessels.

### DEFINITIONS

<b>Adjoining landowner</b>	means the owner of the private land which directly adjoins a Council owned waterway (e.g. the owner of a waterfront property).
<b>Benefiting landowner</b>	means an adjoining landowner who benefits from an approval and authorisation by Council to place private waterway structures within a Council owned waterway.
<b>Boat ramp</b>	means an inclined ramp structure constructed for the purpose of accessing the waterway and extending into the waterway from an adjoining property.
<b>Council owned waterway</b>	means, for the purposes of this policy, the land comprising the bed and foreshore area (where applicable) of the Ballina Quays Canals (Lot 63 DP 263861 and Lot 132 DP 775228), Banyanda Lake (Lot 50 DP 259593) and Endeavour Lake (Lot 72 DP 778628).
<b>Jetty</b>	means a structure extending into the waterway generally perpendicular to the shoreline to enable access to boats and other water vessels.
<b>Pontoon</b>	means a floating platform structure connected to the shore by a gangway or ramp for the primary purpose of accessing boats and other water vessels.
<b>Slipway</b>	means a structure, generally in the form of two supported parallel rails, on which a wheeled cradle is run to draw a vessel out of the water by means of a manual or powered winch, a block and tackle or the like.
<b>Waterway structure</b>	means a boat ramp, jetty, pontoon, slipway or permanent mooring for private use, occupation and benefit.

**Note:** Retaining walls within the canal profile and located fully within the adjoining private property are not waterway structures for the purposes of this policy.

### SCOPE OF POLICY

This policy applies to:

- Council employees
- Community members
- Corporate entities

### LAND TO WHICH THIS POLICY APPLIES

This policy applies to Council owned waterways.

### RELATED DOCUMENTATION

Related documents, policies and legislation:

- *Environmental Planning and Assessment Act 1979*
- *Local Government Act 1993*
- **Ballina Shire Development Control Plan 2012, Chapter 2, Part 3.23 Waterway Structures**

- Licence Application Form – Installation/Transfer of Private Waterway Structures
- Streamlined Assessment Procedures for Retaining Walls, Boat Ramps and Pontoons in the Ballina Quays and Banyanda Estates
- Engineering Standards and Guidelines for Maritime Structures (NSW Maritime 2005).
- Boat Ramp Standard Design – Ballina Shire Council
- Pontoon Design Guideline

### REVIEW

The Private Structures within Council Owned Waterways Policy is to be reviewed every four years or as required.

**Note:** Review of this policy is to include a direct notification to landholders that have frontage to the Ballina Quays Canals, Banyanda Lake and Endeavour Lake to advise of the review process and provide the landholders with an opportunity to provide feedback in relation to the policy review.

## **5.2 Ballina Byron Gateway Airport - Car Rental Leasing Proposals**

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### **5.2 Ballina Byron Gateway Airport - Car Rental Leasing Proposals**

**Section** Commercial Services

**Objective** To provide an overview of the process followed to grant new leases and licenses for the car rental operators at the Ballina Byron Gateway Airport.

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#### **Background**

Council currently has five operators occupying six concession desks within the Arrivals Hall and ready bay spaces (car parking spaces) at the Ballina Byron Gateway Airport (BBGA). The incumbent car rental operators are Avis, Europcar, Hertz / Thrifty (two desks), Budget and Sixt.

The leases for the concession desks and ready bay spaces expired in 2021 and have been operating on a month-to-month basis, whilst construction works were being undertaken in the terminal and on the car park. Car parking spaces (ready bay spaces) need to be allocated to the concession desks to allow the businesses to operate.

Now that the capital works have been completed, Council has undertaken an expression of interest (EOI) process. Council is now able to offer new tenure arrangements for the concession desks and ready bays at the Airport.

This report provides an overview of the confidential report later in this agenda.

#### **Key Issues**

- Rentals
- Lease terms and conditions
- Transparency and accountability

#### **Discussion**

BBGA has six concession desks available for lease in the arrival's hall and 183 ready bay spaces for licence within the car rental car park. Attachments 1 and 2 provide an overview of the terminal and car park areas.

As part of the EOI process, Council engaged a specialist consultant experienced in leasing to rental car operators, to review the car rental lease structures and provide benchmarking advice to assist negotiations with proponents.

The EOI was undertaken late 2023 and early 2024 to determine the level of car rental operator interest, with seven responses received.

Council invited the top six ranked respondents to participate in a direct negotiation process, as there are only six desks available. The outcomes of the direct negotiation process are outlined in the confidential report later in this agenda.

## **5.2 Ballina Byron Gateway Airport - Car Rental Leasing Proposals**

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### **Community Engagement Strategy**

There was no broad community consultation as an EOI process was conducted seeking commercial operators.

### **Financial / Risk Considerations**

The financial terms negotiated with the interested parties are included in the confidential report later in this agenda.

### **Options**

This report is for noting only.

### **RECOMMENDATION**

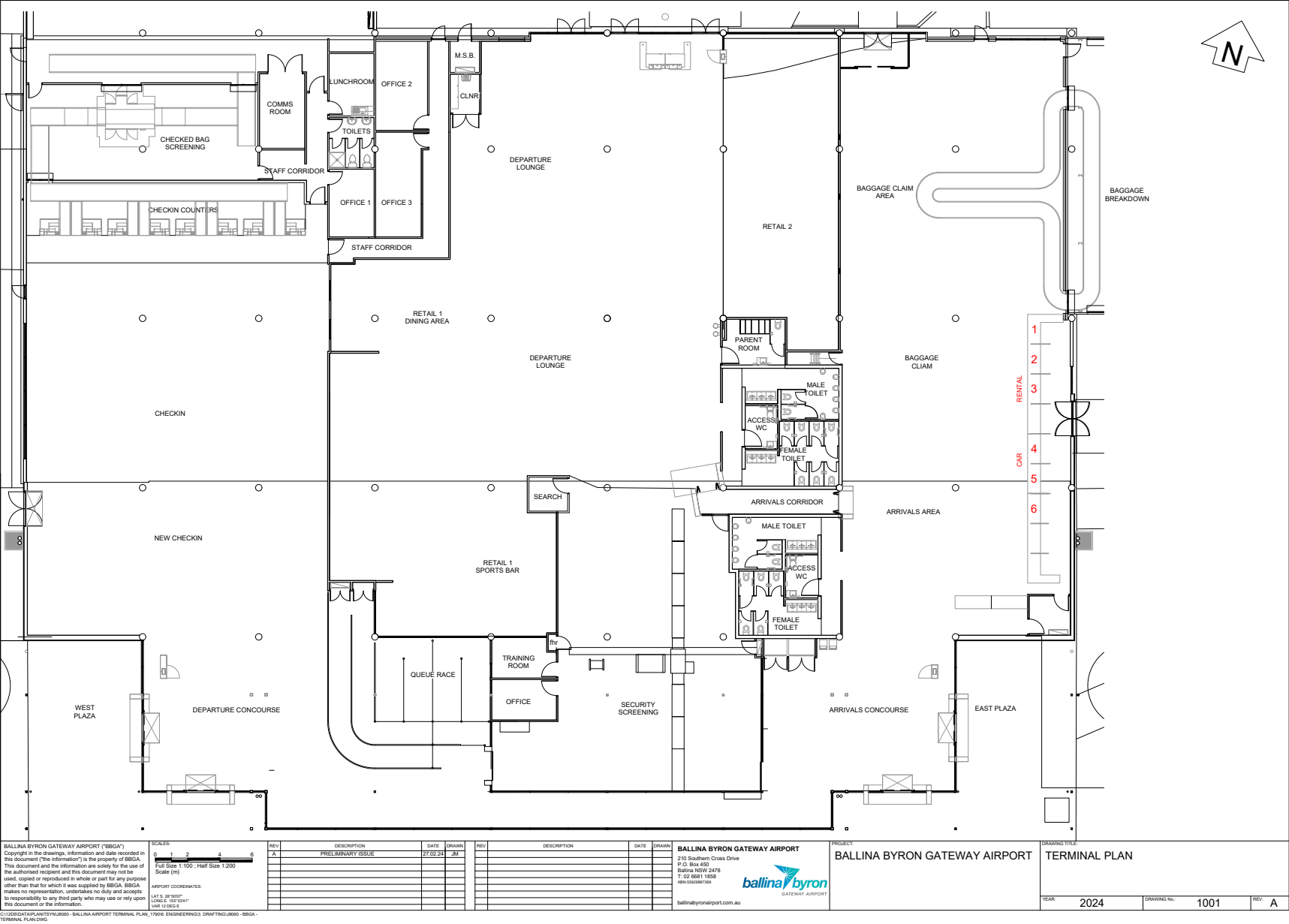
That Council notes the contents of this report in respect to the process followed for the car rental leasing proposals, for the Ballina Byron Gateway Airport.

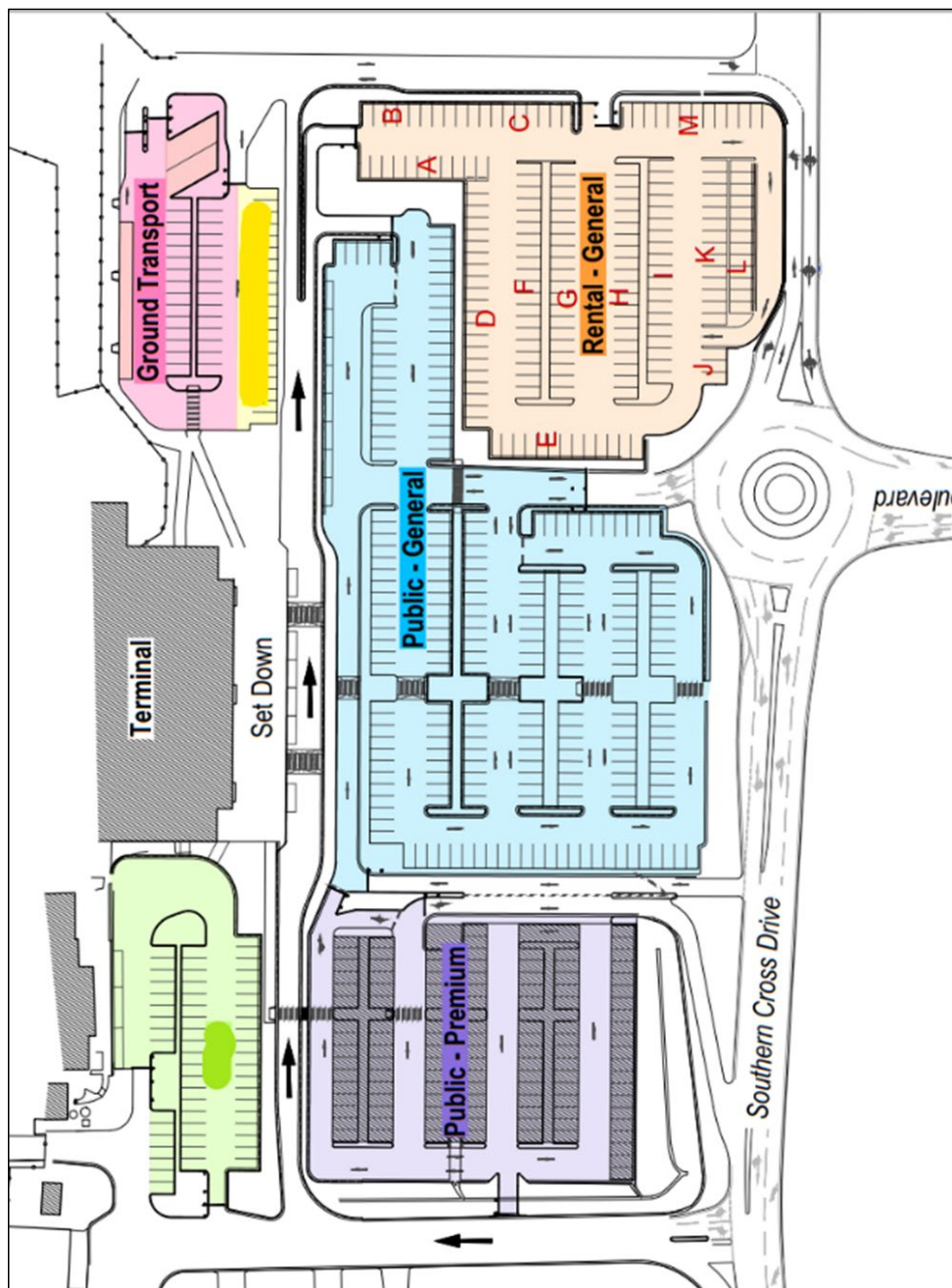
### **Attachment(s)**

1. Ballina Byron Gateway Airport - Terminal Plan [↓](#)
2. Ballina Byron Gateway Airport - Car Park Plan [↓](#)



5.2 Ballina Byron Gateway Airport - Car Rental Leasing Proposals





#### 5.3 Boeing Avenue, Ballina - Industrial Land Sale - Method

**Section** Commercial Services

**Objective** To confirm the preferred process for the sale of Council owned industrial land located at Boeing Avenue, Ballina.

---

#### **Background**

At the 14 February 2024 Commercial Services meeting a report was tabled on the progress of Council's industrial land subdivision development at Boeing Avenue.

The report also provided an update on the feasibility of the project and recommended method of sale of the completed lots.

The resolution arising from that meeting, as adopted at the February 2024 Ordinary meeting, was as follows:

1. *That Council authorises the sale of Lots 1 to 9 (inclusive) in proposed plan of subdivision of Lot 1 DP 1290238 and authorises the General Manager to set the price reserve based on market conditions and the current high level of demand for industrial land.*
2. *That the contracts for sale of Lots 1 to 9 (inclusive) in point 1, are to include "use it or lose it" provisions to reduce the possibility of land purchase for property speculation and land banking.*
3. *That Council retain Lots 10 11 and 12 in plan of subdivision of Lot 1 DP 1290238 for potential lease, with the General Manager authorised to undertake a marketing campaign for prospective tenants for the remaining lots, with any proposal to be reported back to Council.*
4. *That Council notes the preferred approach for the provision of additional car parking and car storage facilities for the Ballina – Byron Gateway Airport (BBGA) is located on BBGA land, as per the contents of this report.*
5. *That in respect to point 1, the General Manager is authorised to execute all necessary sale documents and affix the Council seal to same.*
6. *That Council receives a report on the option of Council directly marketing and selling this land.*

This report responds to point six.

#### **Key Issues**

- Various options available
- Local agent involvement
- Financial return

#### **Discussion**

The completion of civil construction works to create twelve serviced industrial lots at Boeing Avenue has experienced delays due to ongoing wet weather frustrating road construction.

### **5.3 Boeing Avenue, Ballina - Industrial Land Sale - Method**

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Subject to an improvement in the weather, construction works should be completed by the end of June 2024.

Following the completion of construction works, a plan of subdivision will go through an approval and registration process to facilitate certificates of title. This process should be completed by October 2024.

Once certificates of title have been issued, Council can then proceed to sell proposed Lots 1, 2, 3, 4, 5, 6, 7, 8 and 9, as per point one in the 14 February 2024 resolution.

In the report to February 2024, it was proposed that the nominated lots be sold by public auction, as Council has previously conducted successful public auctions of industrial lots.

Council staff have also previously managed the marketing campaigns and negotiated sales with buyers and or local real estate agents.

During the debate at the February meeting, it was suggested that local real estate be excluded from taking part in an auction of the proposed lots to save paying commissions i.e., agents would not be paid for introducing successful purchasers.

As an outcome of the debate, an additional point was resolved (point 6) which has resulted in this report.

Excluding local real estate agents from a Council auction would be a departure from what has been an established practice.

Council and local agents have worked well together in the past to achieve the sale of property and maximise returns to Council.

In an auction environment, prospective purchasers are at times reluctant to bid, which can depress the mood of an auction room.

An agent's role, acting for the principal (Council), is to help create "competitive tension" amongst buyers by urging them to bid or miss out.

Often buyers need that extra push to get them over the line and purchase a property.

In previous Council auctions, real estate agents were able to nominate a buyer up to 24 hours prior to the auction but were only eligible for a commission upon production of written proof that they introduced a successful buyer.

Over the past twelve months or more, real estate agents have been nominating prospective buyers in writing to Council.

If Council resolves to include real estate agents in the auction, they will be asked to confirm their nominated buyers are still interested in bidding for a property at auction.

To consider excluding agents from the auction process may leave Council at risk to claims of seeking to gain from information (introductions) provided in good faith.

It is proposed that the upcoming auction on the nine industrial lots follow a similar path that has proven to be successful in the past which is summarised as follows:

1. Council staff manage the marketing campaign for the auction and negotiate with buyers and agents acting on behalf of prospective buyers.
2. Council will enter into open or general agency agreements with real estate agents wishing to nominate prospective buyers.  
  
Commissions will only be payable where an agent holds an agency agreement, their nominated purchaser buys a property, and the successful purchaser provides written confirmation that the agent introduced them.
3. Council will erect a signboard on the Boeing Avenue site promoting the upcoming auction.
4. Council will provide participating agents with information they can use to promote the upcoming auction on their respective websites. Council will not contribute to any agent's marketing campaign.
5. Council will engage an independent auctioneer to conduct the auction on the designated night.
6. Council's solicitor will prepare contracts for sale and issue upon request to prospective buyers and agents acting for prospective buyers.

The alternative to the option outlined above is to conduct a tender process and award the marketing and auction campaign to one agent.

This is not recommended as most agents would be capable of running the campaign, so selection of an agent would get down to the agent who pitched the lowest rate of commission.

Selecting one agent may also preclude all other agents from participating as the appointed agent would hold an exclusive agency and as such is under no obligation to pay other agents a commission for introducing successful buyers.

Any agent who pitched a low price to win a tender would be unlikely to share what would be a reduced rate of commission with other agents.

Council would also not want to be in the position of having to settle disputes between agents.

#### **Community Engagement Strategy**

Council will conduct a public auction and marketing campaign.

**Financial / Risk Considerations**

Based upon the feasibility assessment prepared for the 14 February 2024 Commercial Services meeting, the following figures have been provided for indicative purposes based on commission rates of 1.50% and 2.00%:

<b>Details</b>	<b>\$ (excl. GST)</b>
Estimated sale proceeds from Lots 1 to 9 (incl.)	10,125,000
Agent's commission @ 2.00% of sales	202,500
Agent's commission @ 1.50% of sales	151,875

Council acting as principal can set the rate of commission that is applicable to all agents it deals with in the auction of these lots.

A sales commission is only payable upon the successful sale and settlement of a property. So, if a party buys at auction without being introduced by an agent, then no sales commission is payable.

Furthermore, if agents assist in creating the "competitive tension" in the auction room the figure of \$10,125,000 could well be exceeded.

**Options**

This report has been prepared to provide Council with further detail on the sale of Lots 1 to 9 (incl.) and the rationale of engaging local real estate agents to assist with sale of the proposed lots.

One option available to Council is to authorise the General Manager to enter into open or general agency agreements with local real estate agents who wish to participate in the marketing and auction campaign for Lots 1 to 9 (incl.).

An alternative option is that Council excludes real estate agents from participating in the marketing and auction campaign for Lots 1 to 9 (incl.).

This option is not recommended as it limits the potential exposure of the proposed lots to the market and doing so may adversely impact financial returns to Council.

It is difficult to provide evidence that Council would be better off financially by excluding real estate agents, due to the commission saved, as the counter argument against this is that the commission paid is more than offset by the increased demand and sales prices achieved at the auction or subsequent sale.

On balance the preferred option is to include local real estate agents for the following reasons:

- There is no evidence to support that Council would be better off financially in not involving the agents, as the sale prices are unknown
- As a public authority it is appropriate for Council to act fairly and equitably and involving all agents improves the fairness and equity of the process
- The real estate industry is based on generating commission through a competitive purchase and sale process, and this competition should generate improved returns for Council.

**RECOMMENDATIONS**

1. That Council authorises the sale of Lots 1 to 9 (inclusive) in proposed plan of subdivision of Lot 1 DP 1290238 by public auction and authorises the General Manager to set price reserves based on market conditions and the current high level of demand for industrial land.
2. That Council authorises the General Manager to enter into open or general agency agreements with local real estate agents who wish to participate in the auction campaign.
3. That the contracts for sale of Lots 1 to 9 (inclusive) in point one, are to include “use it or lose it” provisions to reduce the possibility of land purchase for property speculation and land banking.
4. That in respect to point one, the General Manager is authorised to execute all necessary sale documents and affix the Council seal to same.

**Attachment(s)**

Nil

## **5.4 Childcare Centre Site - Lot 31 Dundee Avenue, Wollongbar - Status**

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### **5.4 Childcare Centre Site - Lot 31 Dundee Avenue, Wollongbar - Status**

**Section** Commercial Services

**Objective** To provide an update on the sale of the Council owned childcare lot in Wollongbar.

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#### **Background**

One resolution arising from the 14 February 2024 Commercial Services Committee meeting, was as follows:

*That Council receive a report on potential ways forward for the proposed childcare centre lot owned by Council at Wollongbar.*

The lot is located at Lot 31 Dundee Ave, Wollongbar. A lot layout plan is included as Attachment 1.

This report responds to that resolution.

#### **Key Issues**

- Sale of Council owned property
- State of the local property market
- Financial return

#### **Discussion**

Council owns the property located at Lot 31 Dundee Avenue, Wollongbar (the site) that comprises level, vacant land (3,164m<sup>2</sup>) zoned R3 Medium Density Residential under the Ballina Local Environmental Plan 2012.

At the Finance and Facilities Committee meeting held on 21 April 2022, Council resolved to sell the site through an expression of interest (EOI) process.

Only one offer was received through the EOI, that offer being \$2 million + GST. The offer was subsequently withdrawn due to the viability of what was being proposed for the site and perceived competition from other proposed childcare sites in Wollongbar.

In late 2022, the site was placed on the market for sale by private treaty at an asking price of \$2 million + GST.

Since that time there has been interest from several parties and offers have been made at below the asking price. At present one party is conducting a due diligence process to determine the viability of their proposal.

Discussions with real estate agents indicate the overall property market has slowed since the peaks of 2022 and early 2023 due to rising interest rates and difficulties in securing finance for property development projects.



## **5.4 Childcare Centre Site - Lot 31 Dundee Avenue, Wollongbar - Status**

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Apart from prevailing property market conditions subduing interest in the site, the feedback from some parties have suggested the site is too large for what they are proposing to develop.

Others have expressed concern that staff who would operate a proposed childcare facility may have difficulty in finding affordable housing in the local area.

This is an important point as childcare facilities generally operate for up to twelve hours per day, five days a week. Staff availability is critical to the success of these facilities.

One prospective buyer has suggested that a mix use development on the site incorporating a childcare centre and onsite residential accommodation for staff is an option Council should consider.

Alternatively, Council could consider subdividing the site to create a smaller childcare centre lot and a medium density lot, which may make funding a mixed use development easier to finance as the two forms of development have differing financial risk profiles.

A further factor for the delay in offers could be prospective buyers are waiting for certainty on how Lots 29 to 30 Dundee Ave are developed on the Council owned land opposite the subject site (as per Attachment 1).

If these lots are developed as medium density housing, demand for childcare places may increase due to young families being attracted to medium density housing.

An additional matter that may have deterred some prospective buyers is Council's intention to insert a "use it or lose it" clause in a sale contract to prevent speculative buyers land banking the site or developing it for uses other than a childcare centre.

It is not recommended that Council change position on this matter.

As time progresses and uncertainty diminishes, the value of the site will continue to improve.

There is no urgency for Council to do anything other than wait for the property market to improve.

A level site of this size and configuration in the Alstonville and Wollongbar area is very difficult to find and may not get any easier as time goes by.

### **Community Engagement Strategy**

The sale is being promoted through local real estate agents.

### **Financial / Risk Considerations**

The site is on the market for sale by private treaty. There are no perceived financial risks if Council chooses to hold the site until the property market improves.

### **Options**

This report has been prepared to provide Council with an update on the progress of marketing the site. No further action is recommended at this stage.

It is not recommended that additional funds be spent on marketing the site as local real estate agents and developers of childcare centres are aware it is on the market.

The potential to split the site for potential rental medium density housing is of interest, with the preference being to wait until Council's existing medium density proposal is further advanced before considering this option, if the site remains unsold.

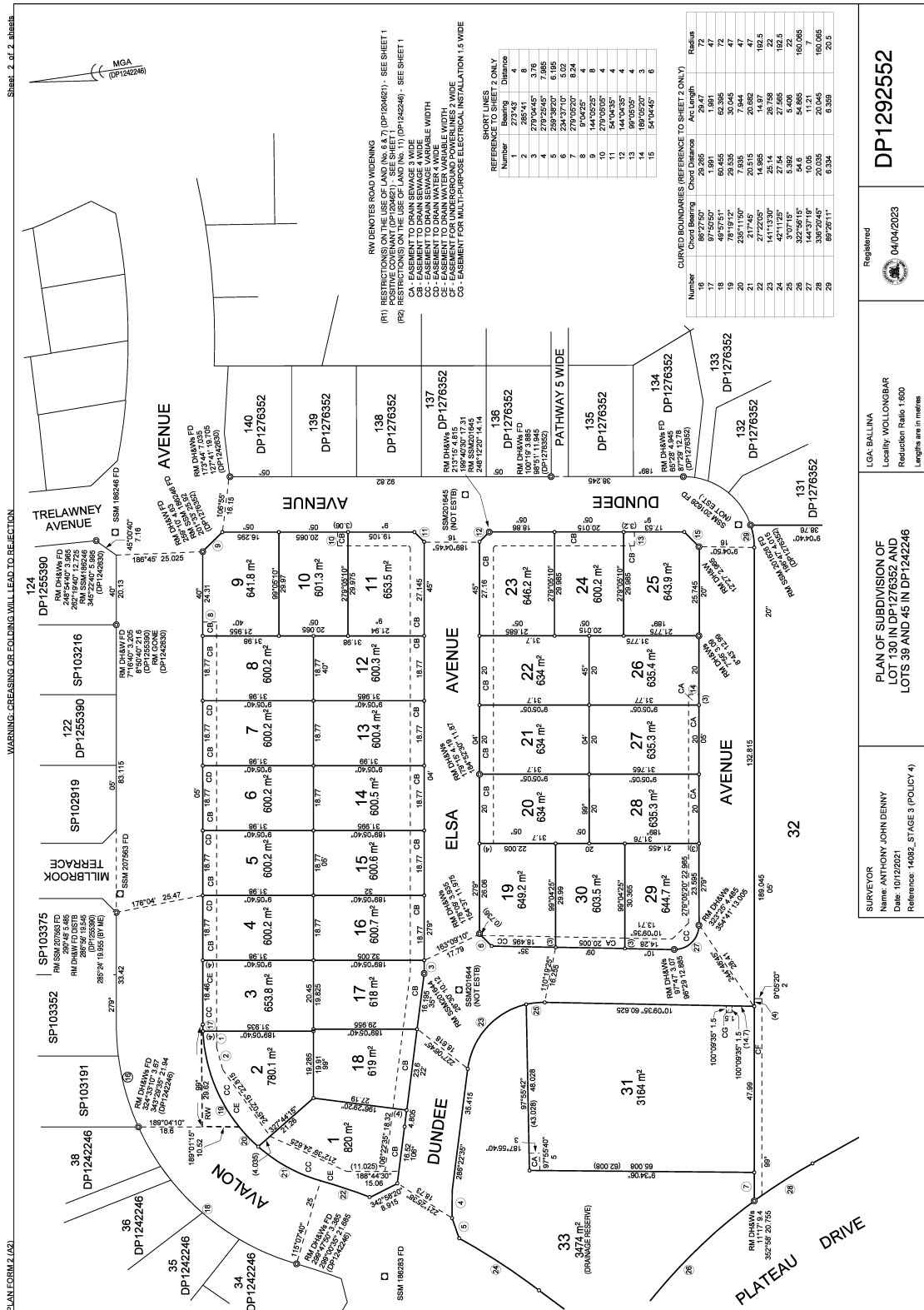
### **RECOMMENDATION**

That Council notes the contents of this report in respect to the status of the Council owned childcare site at Lot 31 Dundee Avenue, Wollongbar.

### **Attachment(s)**

1. Wollongbar - Medium Density Housing Project - Lot Layout [↓](#)

#### 5.4 Childcare Centre Site - Lot 31 Dundee Avenue, Wollongbar - Status



## 5.5 Wollongbar Medium Density Housing Project - Status

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### 5.5 Wollongbar Medium Density Housing Project - Status

**Section** Commercial Services

**Objective** To provide an update on the status of the Wollongbar Medium Density Housing Project.

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#### **Background**

At the 22 February 2024 Ordinary meeting, Council accepted a tender for a consultant to plan, design and manage the construction of medium density housing on a Council owned site in Wollongbar and confirmed a preference to undertake a medium density residential housing development on Lots 19, 20, 21, 22 and 30 of the subdivision.

This is known as Stage 1 of the project, with future stages dependent on the outcomes of Stage 1.

The purpose of this report is to provide an update on the status of the project.

#### **Key Issues**

- Project viability
- Financial sustainability
- Community benefits and social outcomes

#### **Discussion**

Stage 1 of the Wollongbar Medium Density Housing Project is located on the corner of Dundee and Elsa Avenues, Wollongbar, as per image 1.

**Image 1 – Site Location, Wollongbar**



## 5.5 Wollongbar Medium Density Housing Project - Status

Stage 1 has been designed in accordance with the State Environmental Planning Exempt and Complying Development Policy 2008. This means the project will not go through a development application process but instead need to comply with Part 3B of the Low-Rise Housing Diversity Code.

The Low-Rise Housing Diversity Guide (Department of Planning, 2020) provides standards for dwellings across NSW for duplex, terraces, town houses and manor houses.

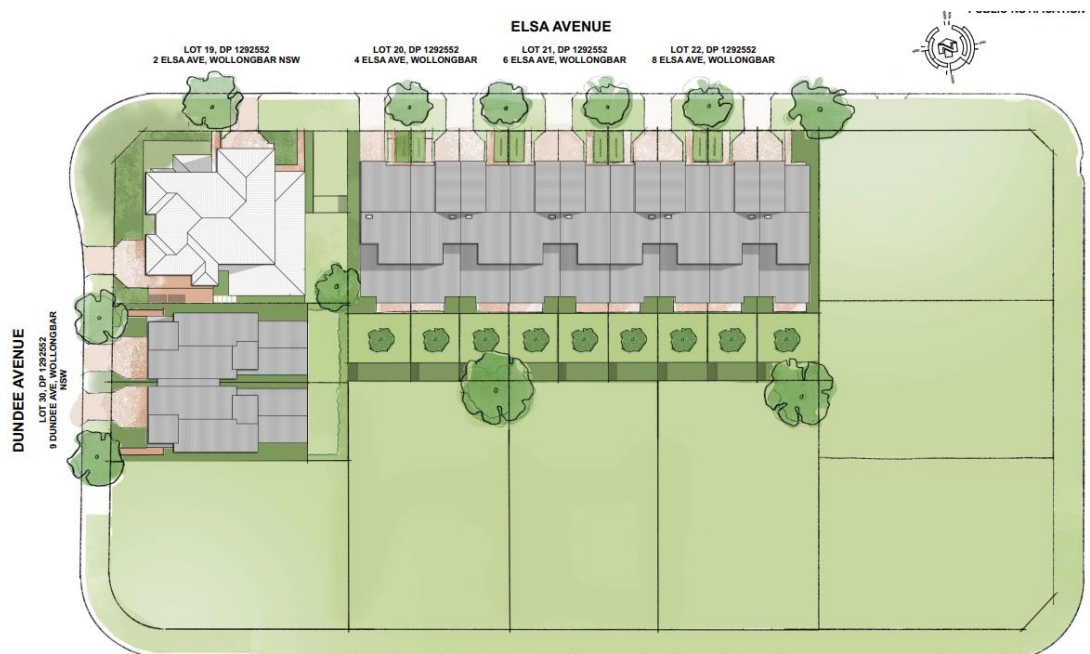
The design standards are intended to achieve a quality product and respond to the character of the area. The standards are to improve occupant livability through amenity and layout, ceiling heights, energy efficiency, visual privacy, and natural ventilation. The standards are aimed at delivering a mix of housing including varying dwelling size, number of bedrooms and accessibility.

The proposed dwellings will have environmental design features that include roof, wall and floor insulation, solar panels, inground water tanks, tinted windows, and solar hot water units.

Stage 1 will be developed over five lots and yield 15 dwellings including 17 garage spaces. The 15 dwellings will comprise of 2 x four-bedroom duplexes, 9 x three-bedroom townhouses, 2 x one-bedroom units, 1 x two-bedroom unit, and 1 x three-bedroom unit.

Information on the project will be available through a community consultation process that concludes on 5 July 2024 and can be found at [YourSayBallina.com.au/Wollongbar-Housing-Project](https://www.yoursayballina.com.au/Wollongbar-Housing-Project) (refer Attachment 1). The proposed site layout and designs are in the following pages of the report.

**Image 2 - Site Layout: Dundee and Elsa Ave, Wollongbar**





**Image 3 - Manor house**

**(configuration includes one, two and three-bedroom units)**



**Image 4 - Four-bedroom Duplexes**





**Image 5 - Three-bedroom Townhouses**



A further report on the project will be presented to Council once the community consultation process has concluded. The consultants will next progress to detailed structural engineering, electrical design, and hydraulic design following on from the consultation process.

### **Community Engagement Strategy**

Council has commenced a community consultation process, which includes a direct mail to residents of Wollongbar (approximately 1,500 letters), exhibition material that includes floor designs and street renders on Council's website. Submissions are now open and close on 5 July 2024.

Council staff have provided a presentation to Council's C Ward Committee and the Economic Activation Taskforce.



### **Financial / Risk Considerations**

The financial feasibility assessment remains unchanged from a report to the 14 February 2024 Commercial Services Committee meeting.

Council has allocated funding of \$500,000 for the first phase of Stage 1 (design and approvals) of the project.

The construction costs for this project are not in the Long-Term Financial Plan as progression to construction will be subject to a further feasibility and confirmation of construction costs through a tender process.

Council is managing the risks for this project through staging and on-going reviews of the financial feasibility of the project.

### **Options**

This report provides an update on the status of Council's Wollongbar Medium Density Housing Project.

Design work is well advanced with the next step being the detailed structural engineering, electrical design, and hydraulic design, which will then put Council in a position to call tenders for construction.

A further report will also be presented to Council once the community consultation process has concluded. Consultation is not required for exempt and complying development, however it is important that Council ensures that local residents are aware of the type of development proposed for this Council owned site.

Feedback from the C Ward Committee and the Economic Activation Taskforce has been positive to date, with the designs being contemporary and consistent with the neighbourhood amenity.

The current priority is finalising the approval process and ensuring all documentation is ready to call construction tenders.

There are still several decision points for Council, including an updated feasibility, acceptance or rejection of any construction tender, and then clarifying which units are to be leased and / or sold, along with the criteria for selecting tenants.

This step-by-step approach allows Council to manage the risks associated with the project, along with ensuring that there is full public transparency in the steps being taken to deliver this project on behalf of the community.

### **RECOMMENDATION**

That Council notes contents of this status report on the Wollongbar Medium Density Housing Project.

### **Attachment(s)**

1. Wollongbar Medium Density Housing Project - Floor Plans [↓](#)

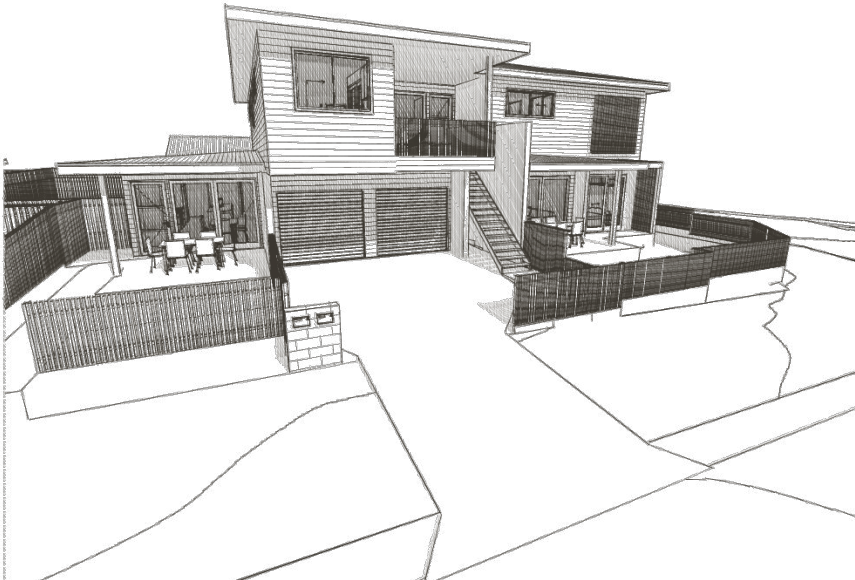
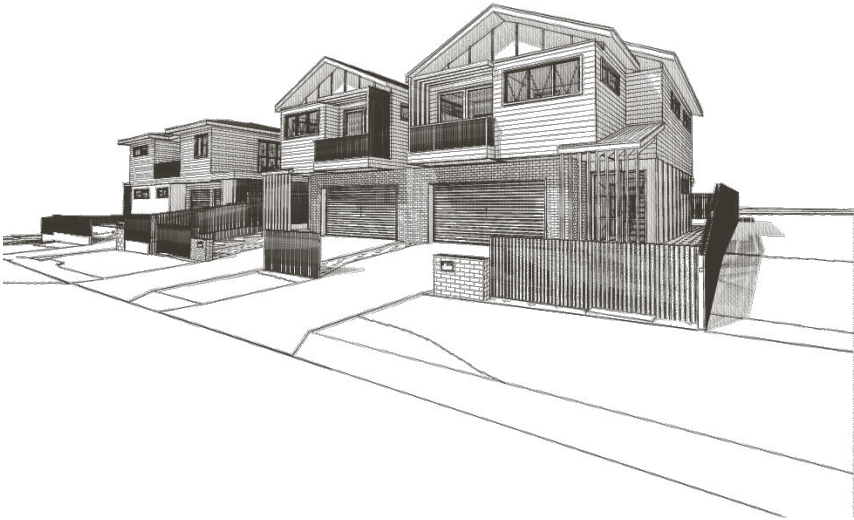
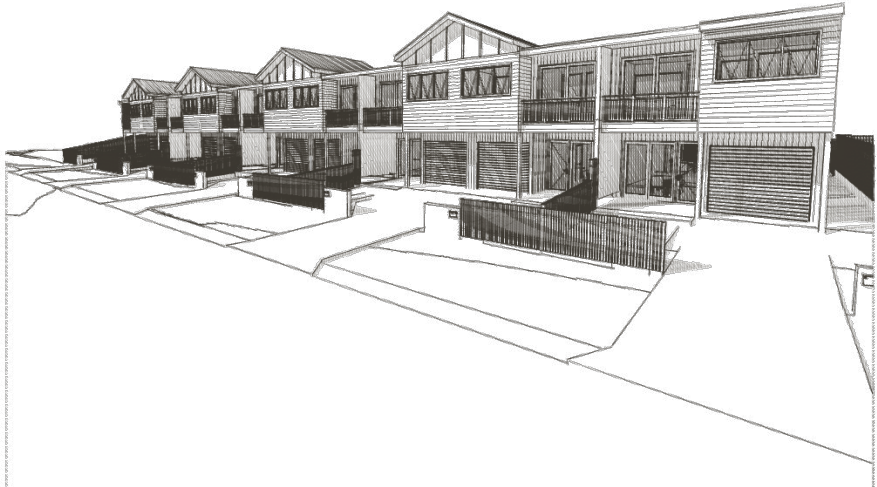
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The Kollektive Pty Ltd

project:

Housing Development  
2-8 Elsa Avenue & 9 Dundee Avenue  
Wollongbar NSW

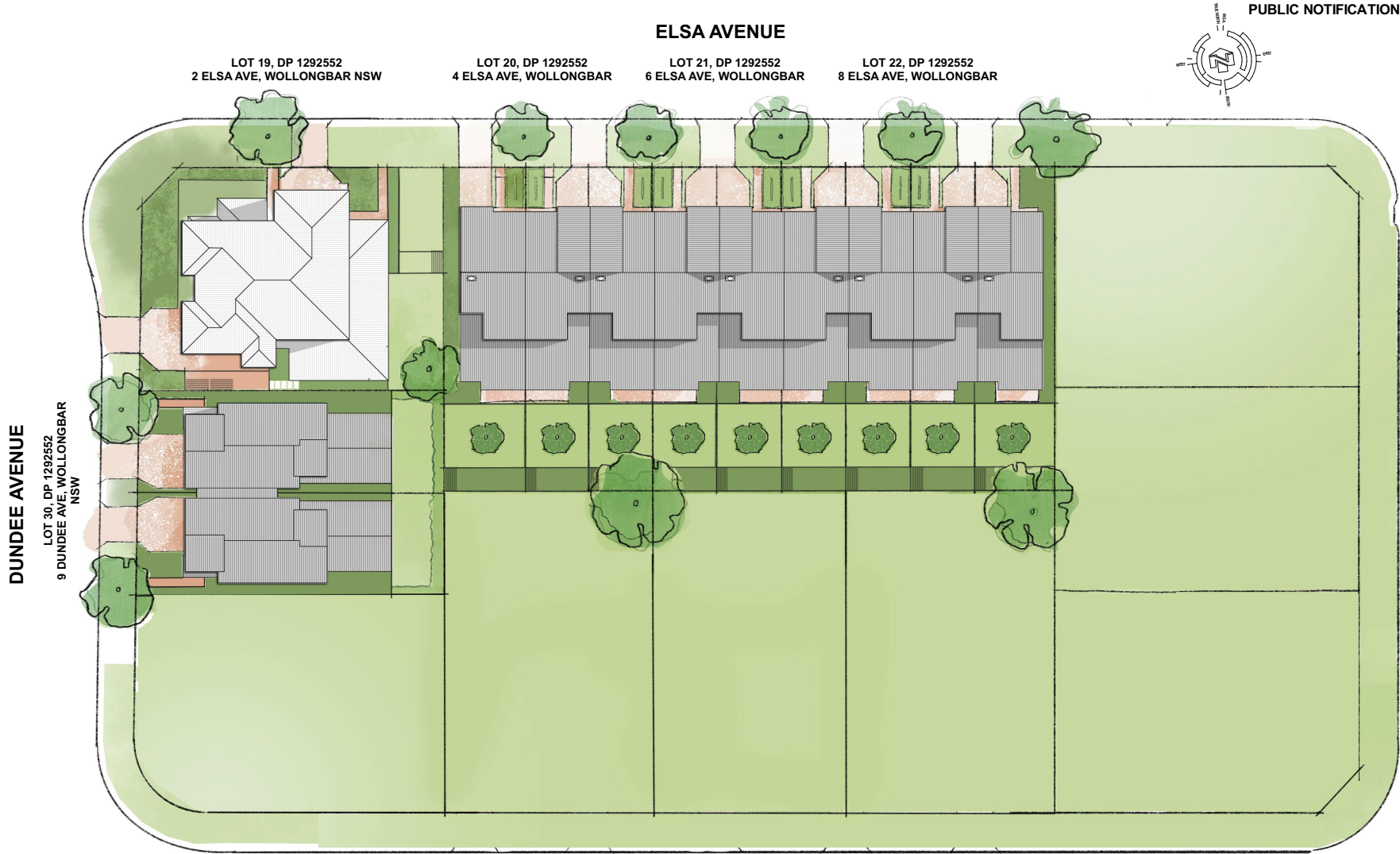
Page No:	Page Name
001	COVER PAGE
100	SITE PLAN
201	OVERALL GROUND FLOOR PLAN
202	OVERALL 1ST FLOOR PLAN
203	GROUND FLOOR PLAN - MANOR HOUSE
204	FIRST FLOOR PLAN - MANOR HOUSE
205	GROUND & FIRST FLOOR PLAN - TOWNHOUSES
206	GROUND FLOOR PLAN - DUPLEX
207	FIRST FLOOR PLAN - DUPLEX
208	ENVIRONMENTAL SUSTAINABLE DESIGN



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B	20/06/24	PRELIM LAYOUT COMPLETION	SB								

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Ballina Shire Council	24006	001	4/6/2024
project	scale	issue	drawing name
Wollongbar Housing		B	COVER PAGE
2-8 Elsa Avenue & 9 Dundee Avenue Wollongbar NSW	drawn PB	checked Sam Ray	



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Ballina Shire Council

project

Wollongbar Housing

2-8 Elsa Avenue & 9 Dundee Avenue Wollongbar NSW

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Sam Ray

project number

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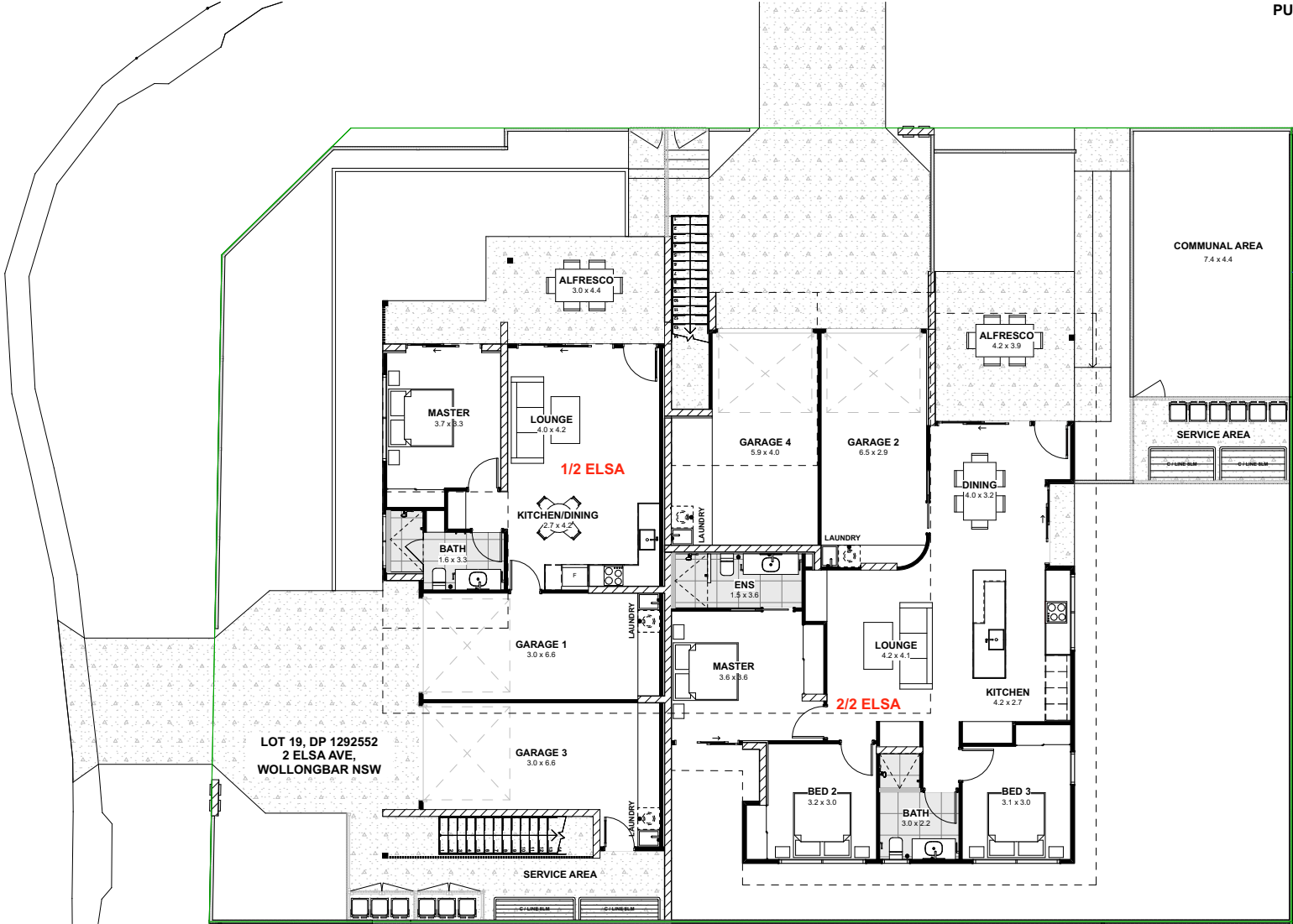
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4/6/2024

drawing name

SITE PLAN

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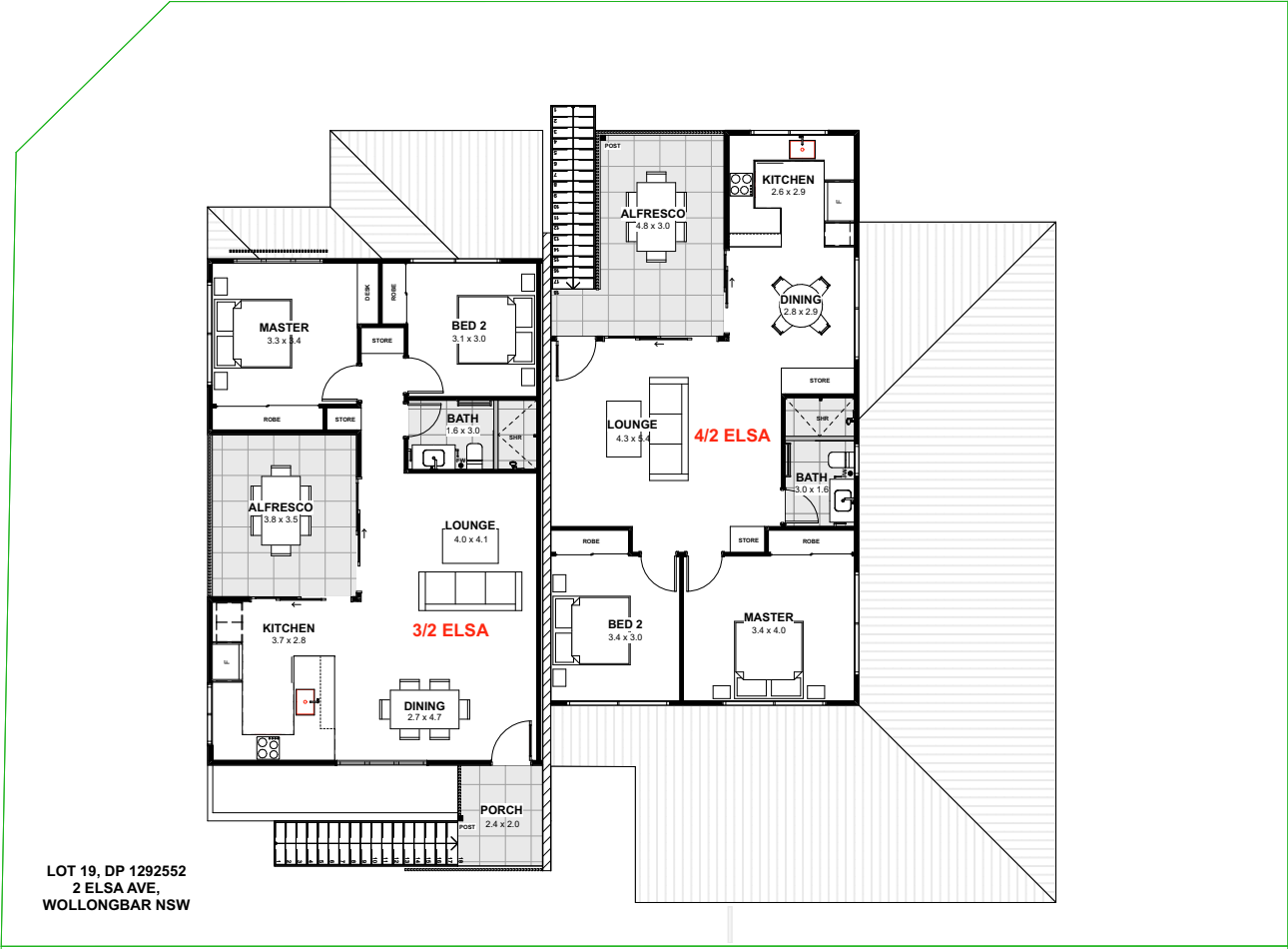


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project	scale	issue	drawing name
Wollongbar Housing	1:100 on A3	B	GROUND FLOOR PLAN - MANOR HOUSE
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	PB	Sam Ray	



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client

Ballina Shire Council

project

Wollongbar Housing

2-8 Elsa Avenue & 9 Dundee Avenue Wollongbar NSW

scale

1:100 on A3

drawn

PB

issue

B

checked

Sam Ray

project number

24006

drawing number

204

drawing print date

4/6/2024

drawing name

FIRST FLOOR PLAN - MANOR HOUSE

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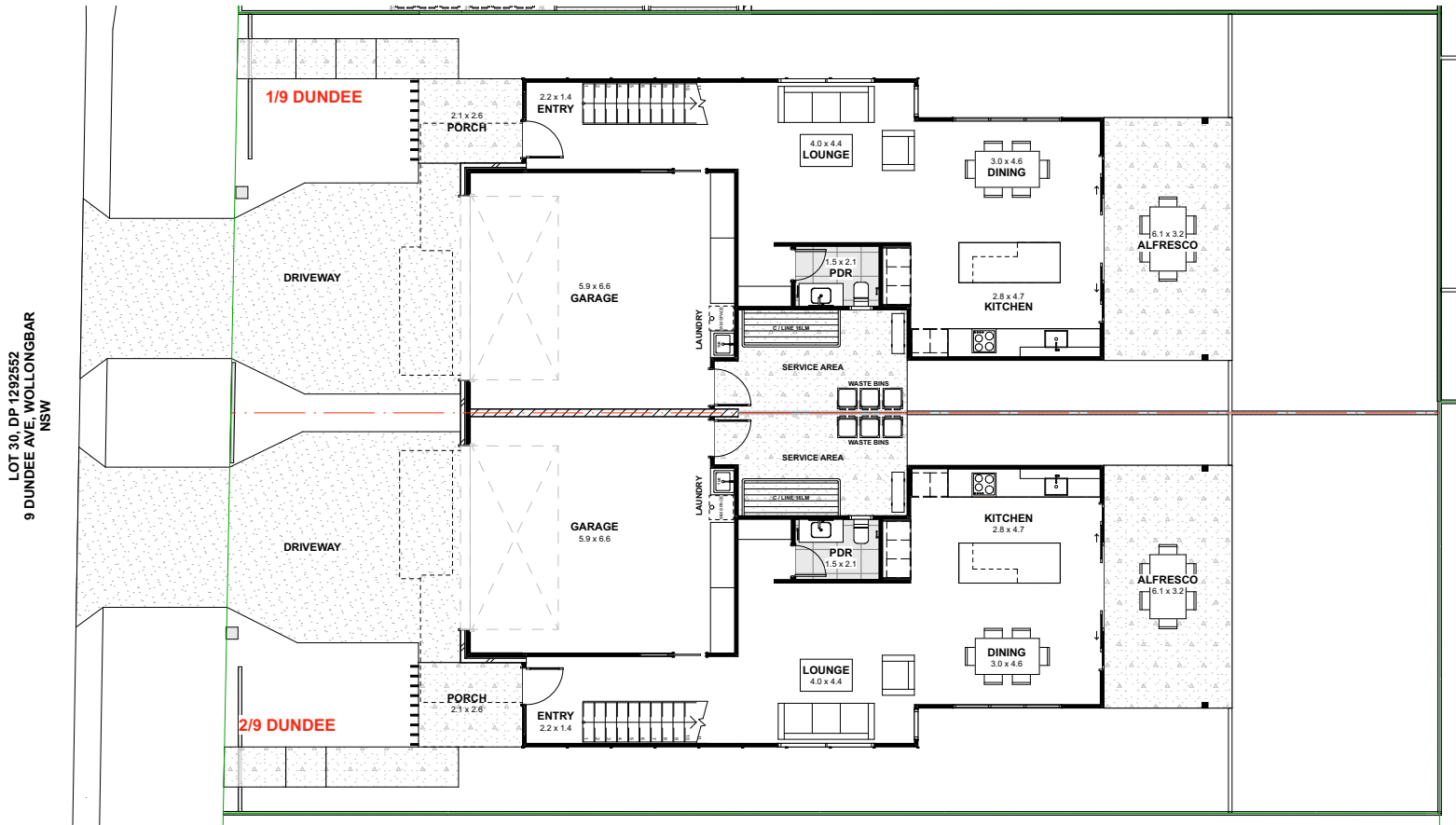
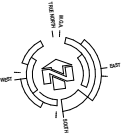
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project	scale	issue	drawing name
Wollongbar Housing	1:100 on A3	B	GROUND & FIRST FLOOR PLAN - TOWNHOUSES
2-8 Elsa Avenue & 9 Dundee Avenue Wollongbar NSW	drawn	checked	
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Ballina Shire Council  
12/06/24

Commercial Services Committee Meeting Agenda  
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Ballina Shire Council

project

Wollongbar Housing

2-8 Elsa Avenue & 9 Dundee Avenue Wollongbar NSW

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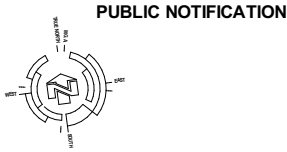
GROUND FLOOR PLAN - DUPLEX

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Wollongbar Housing	scale	issue	drawing name
2-8 Elsa Avenue & 9 Dundee Avenue Wollongbar NSW	1:100 on A3	B	FIRST FLOOR PLAN - DUPLEX
	drawn	checked	
	PB	Sam Ray	



PROPOSED SUSTAINABLE ENVIRONMENTAL DESIGN COMPONENTS TO ALL DWELLINGS

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SOLAR PANELS



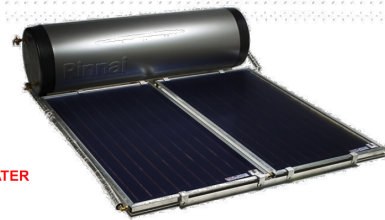
WALL & FLOOR INSULATION



INGROUND WATER TANKS



ROOF INSULATION



SOLAR HOTWATER UNIT



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Ballina Shire Council	24006	208	4/6/2024
project	scale	issue	drawing name
Wollongbar Housing		B	ENVIRONMENTAL SUSTAINABLE DESIGN
2-8 Elsa Avenue & 9 Dundee Avenue Wollongbar NSW	drawn PB	checked Sam Ray	

**6. Confidential Session**

In accordance with Section 9 (2A) of the Local Government Act 1993, the General Manager is of the opinion that the matters included in the Confidential Business Paper, and detailed below are likely to be considered when the meeting is closed to the public.

Section 10A(4) of the Local Government Act, 1993 provides that members of the public are allowed to make representations to or at a meeting, before any part of the meeting is closed to the public, as to whether that part of the meeting should be closed.

A brief summary of each of the reports recommended for consideration in confidential session follows:

**6.1 Ballina Byron Gateway Airport - Car Rental Leasing Proposals**

Refer to Item 5.2 of this agenda.

**RECOMMENDATION**

That Council moves into committee of the whole with the meeting closed to the public, to consider the following items in accordance with Section 10A (2) of the Local Government Act 1993.

**6.1 Ballina Byron Gateway Airport - Car Rental Leasing Proposals**

**Reason for Confidentiality**

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(c) of the Local Government Act 1993. which permits the meeting to be closed to the public for business relating to the following:-

- c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business

and in accordance with 10D(2)(c), on balance, the discussion of the matter in an open meeting is not considered to be in the public interest due to the ongoing commercial negotiations and the release of any information could prejudice those negotiations.